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From: Lumino, Karen
Sent: Monday, January 11, 2016 4:30 PM
To: John Kelliher
Subject: RE: Commerce Street Plume driveway

Hmmmm. At the end of september, EPA changed the addresses for our websites. i was of the impression that it didn't impact the links. But perhaps it did. try this:

google "commerce street superfund" – click on "find new england sites" or something similar (will likely be the first item listed). this will get you to the old page and then after a few seconds will redirect you to the new page. once you are on the new page, scroll down to "reports and documents". then click on "all publicly available documents", then "technical reports". you should see both the Record of Decision, and, the Remedial Investigation Report in that list.

am heading out the door. Will check email tomorrow to see if you still need help getting to those reports.

From: John Kelliher [mailto:JKelliher@epsofvermont.com]
Sent: Monday, January 11, 2016 4:18 PM
To: Lumino, Karen <lumino.karen@epa.gov>
Subject: RE: Commerce Street Plume driveway

Hi Karen,

Neither of the hyperlinks work...Is there a mistake with those addresses?

Regards,

John Kelliher, Hydrogeologist
Environmental Products & Services of Vermont, Inc.
273 Commerce Street
Williston, VT 05495
802-862-1212 (o)
802-585-6418 (c)

From: Lumino, Karen [mailto:lumino.karen@epa.gov]
Sent: Monday, January 11, 2016 2:23 PM
To: dwei1984@aol.com
Cc: John Kelliher; Smith, Michael B; Hultgren, John
Subject: FW: Commerce Street Plume driveway

Don,

I am writing to respond to the inquiry that I received from John Kelliher, on your behalf, regarding proposed construction of a driveway on a new/revised easement that runs along the northern portion of the property at 96 Commerce Street, Williston, Vermont (Lot 07:019:011000) (the Property). The Property is located within the Commerce Street Plume Superfund Site (the Site). EPA's cleanup plan for the Site is detailed in the Record of Decision (ROD) issued in September 2015, a copy of which can be found at: <http://semspub.epa.gov/work/01/582994.pdf>. On July 27, 2015, EPA sent you notification of your opportunity to comment on its proposed cleanup plan.

Specific to the Property, the ROD requires, among other things, the excavation of approximately 630 cubic yards of contaminated soil in the area of the former unlined lagoon and off-site disposal at a licensed facility, in compliance with all applicable RCRA and Vermont hazardous waste regulations. The location of the former lagoon is shown on the figure at the end of this email (extracted from Figure 1 of the ROD). Soils in this area are contaminated with PAHs, arsenic and chromium, and were determined to present a risk to human health. Data indicate that at least some of this material is RCRA-characteristic waste and needs special handling and disposal. EPA plans to conduct further sampling in the area of the former lagoon on the Property to further delineate the location and extent of soils that exceed the cleanup levels selected in the ROD (Table L-1, attached) and need to be excavated.

It is my understanding that in order to construct the proposed driveway, soil will be cut from one area and the intent is to use it as fill in another area, as shown on the attached figure. EPA has not sampled soils within the proposed area for the driveway. Nearest sample locations and sampling results on the Property can be found in the Remedial Investigation (RI) report for the Site. See Figures 2-5, 4-1 and 4-2 of the RI report, which can be found at: <http://semspub.epa.gov/work/01/581107.pdf>. The Agency does not know if the soils you propose to dig up and relocate are contaminated. If the proposed excavation and construction work is improperly done, the digging, relocation or spreading of contaminated soils may be considered a release of hazardous substances under CERCLA, subjecting you to liability under the Superfund law.

An easement holder could also be considered an owner, and thus subject to liability under Section 107 of CERCLA. Accordingly, I provide information below about the bona fide prospective purchaser (BFPP) exemption for your information. Under CERCLA, an owner who wishes to qualify for the BFPP exemption to liability under Section 101(40) and 107(r)(1) must meet certain requirements. The BFPP provision is self-implementing, meaning that the purchaser is responsible for achieving and maintaining BFPP status. EPA recommends working with an environmental consultant and legal counsel with respect to meeting and continuing to comply with the BFPP criteria.

Among other requirements, the BFPP provisions require an owner to perform an All Appropriate Inquiry before purchase. A BFPP must also be able to demonstrate that s/he has meets certain continuing obligations, including but not limited to exercising appropriate care with respect to hazardous substances found at the facility by taking reasonable steps to:

- (i) stop any continuing release;
- (ii) prevent any threatened future release; and
- (iii) prevent or limit human, environmental, or natural resource exposure to any previously released hazardous substance.

A BFPP is also required to provide cooperation, assistance and access to EPA to conduct response actions, and to implement and abide by institutional controls.

Prior to construction of the driveway, you have proposed a sampling program consisting of five soil samples collected from two feet below grade at the locations marked on the attached. The samples are to be analyzed for hexavalent chromium and compared to promulgated standards in order to determine if the material is appropriate for use as borrow. Through this email, EPA neither approves nor disapproves of your proposed improvements, work approach or sampling plan. I do offer, however, the following comments for your consideration based on my knowledge of the Site:

1. In addition to hexavalent chromium, analysis of the soils should also include PAHs and arsenic, which also contribute to human-health risk associated with the Property.
2. Data analysis should include a comparison to the residential, risk-based soil cleanup levels that EPA selected in the 2015 ROD, as shown in Table L-1. Soil that exceeds EPA's cleanup levels should not be used as borrow, but instead be disposed of properly off-site in compliance with all federal, state, and local laws. Please note that materials removed may be contaminated with hazardous substances and subject to RCRA, and therefore require proper characterization, identification and off-site disposal at a licensed disposal facility.

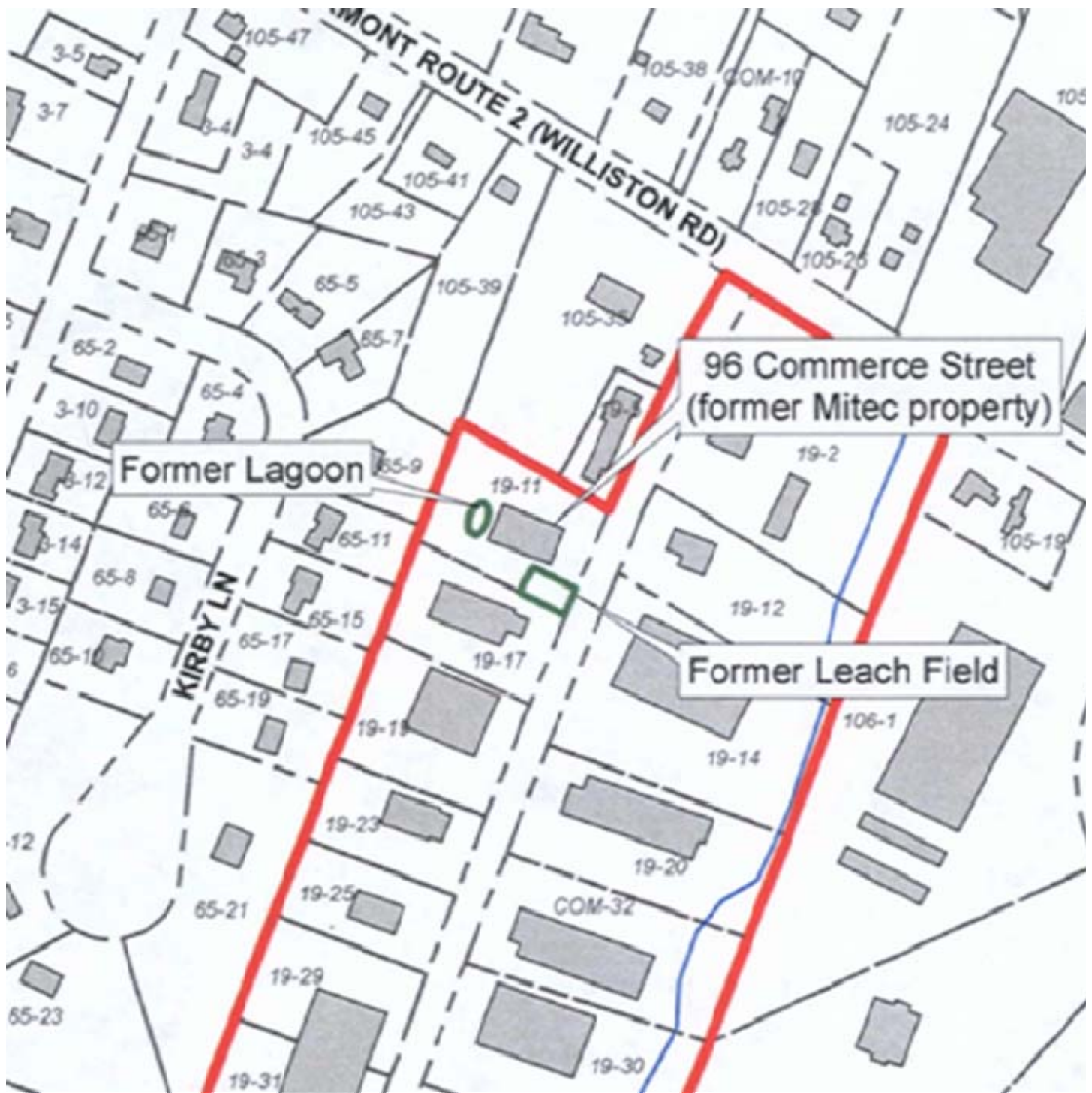
3. Given the distribution of contaminants found on the Property, an additional soil sample from the 6" to 12" below grade interval from each of the five proposed locations should be added to the program.
4. A robust health and safety plan that presumes that field personnel will be in contact with soil containing hexavalent chromium, PAHs and arsenic should be implemented.

In general, the excavation, removal and disposal of soil materials must be done in compliance with all federal, state and local environmental and human health and safety laws.

Please note that at a future time EPA may have to drill holes through the gravel and asphalt driveway for sampling, and depending upon the results, EPA may have to dismantle/dig up the driveway in order to excavate contaminated soils.

This email is merely informational based on EPA's understanding of the Site at this time. It is not intended to limit or affect EPA's authority under CERCLA or any other law or to provide a release from CERCLA liability.

I can be reached at 617-918-1348 should you have any questions.
Karen



From: John Kelliher [<mailto:JKelliher@epsofvermont.com>]

Sent: Wednesday, January 06, 2016 3:06 PM

To: Lumino, Karen <lumino.karen@epa.gov>

Cc: michael.b.smith@vermont.gov; Don Weston Excavating (dwei1984@aol.com) <dwei1984@aol.com>

Subject: RE: Commerce Street Plume driveway

Hi Karen,

Thank you for getting back to me so quickly! I have attached a marked up drawing showing the area of the driveway of concern, with the areas of “cut” and “borrow” identified. Looks like we would need 5 samples to do 30 foot spacing. Let me know if you have additional questions. Thank you !

Regards,

John Kelliher, Hydrogeologist
Environmental Products & Services of Vermont, Inc.
273 Commerce Street
Williston, VT 05495
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802-585-6418 (c)